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REPORT TO THE HOUSE COMMITTEE
ON INTERIOR AND INSULAR AFFAIRS
BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

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Improvements Needed In Review
Of Public Land Withdrawals
-- Land Set Aside For Special
Purposes

Department of the Interior
Department of Agriculture
General Services Administration

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Public land withdrawals generally are not being reviewed to determine whether they should remain in effect and those reviewed are not being revoked expeditiously. Many obsolete public land withdrawals exist and may prohibit the most effective use of public land. Coordination is necessary between agencies involved in land programs to help avoid duplication of effort in certain public land activities.

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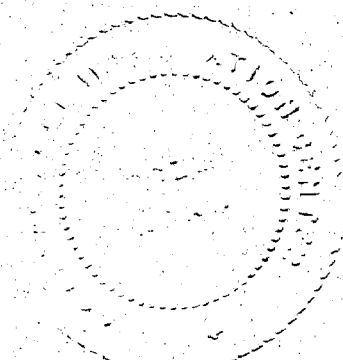
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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-184196

The Honorable James A. Haley, Chairman
Committee on Interior and Insular Affairs
House of Representatives

Dear Mr. Chairman:

This report describes the Department of the Interior's Bureau of Land Management procedures for reviewing and re-voking public land withdrawals. We made this review pursuant to your October 7, 1975, request. This report covers our review of public lands withdrawn in the State of California.

We discussed our findings with agency officials during our review and their comments have been included herein. However, in accordance with a request from your office, we have not obtained formal agency comments.

This report contains recommendations to the Secretary of the Interior, which are set forth on pages 21 and 22. As you know, Section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report. We will be in touch with your office in the near future to arrange for the release of the report so that the requirements of Section 236 can be set in motion.

Sincerely yours,

Comptroller General
of the United States

C O N T E N T S

		<u>Page</u>
DIGEST		i
CHAPTER		
1	INTRODUCTION	1
	Processing withdrawal and revocation applications	3
	Interior's responsibility for reviewing existing withdrawals	3
	General Services Administration's responsibility for reviewing withdrawals of public lands	4
	Reviews of withdrawal program	5
2	IMPROVEMENTS NEEDED IN WITHDRAWAL REVIEW AND REVOCATION PROGRAMS	7
	Bureau's failure to implement a comprehensive review program has allowed obsolete withdrawals to continue	7
	Need for coordinating review activities between GSA and the Bureau	15
	The Bureau's withdrawal restoration program is untimely	18
3	CONCLUSIONS AND RECOMMENDATIONS	21
	Conclusions	21
	Recommendations to the Secretary of the Interior	21
4	SCOPE OF REVIEW	23
APPENDIX		
I	October 7, 1975, letter from the Chairman, House Committee on Interior and Insular Affairs	24
II	Withdrawals on Forest Service lands	26
	<u>ABBREVIATIONS</u>	
GSA	General Services Administration	
OMB	Office of Management and Budget	

COMPTROLLER GENERAL'S REPORT
TO THE HOUSE COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS

IMPROVEMENTS NEEDED IN REVIEW
OF PUBLIC LAND WITHDRAWALS--
LAND SET ASIDE FOR SPECIAL
PURPOSES
Department of the Interior
Department of Agriculture
General Services Administration

D I G E S T

About 517 million acres of our Nation's public lands have been "withdrawn" by Federal agencies. Generally, withdrawals are defined as statutory or administrative actions restricting or segregating public lands from settlement, entry, location, or disposal under some or all of the general land laws. Use of the land thereafter is limited to the specific purpose or purposes for which it was withdrawn.

These purposes include recreation areas, wilderness areas, national parks, and many others. The Secretary of the Interior and the Administrator of General Services have responsibility for reviewing the status of certain withdrawn lands. The Secretary has delegated his authority to the Bureau of Land Management in the Department.

A GAO review of land withdrawals in California showed that the Bureau had not established a comprehensive program to review land withdrawals primarily under its jurisdiction. In many cases a review was not made, or, if made, it was limited to identifying withdrawals, rather than determining whether any were obsolete and should have been revoked. Many old withdrawals exist--some made in the early 1900s--and had not been reviewed. Therefore, a determination of whether the lands should still be set aside for the purposes intended could not be made. In addition, a program to determine that other agencies' withdrawals are reviewed had not been instituted. (See pages 7 and 21.)

GAO also found that the Bureau and the General Services Administration had overlapping responsibilities for reviewing withdrawals--primarily concerning those for military purposes.

GAO found also that the Bureau had not processed revocation applications submitted to it by other

agencies in a timely manner so that the land withdrawn can be returned to the public land inventory. Some withdrawal revocation applications were about 19 years old, and the Bureau took an average of 4 years to process such applications. A Bureau of Reclamation official said that the failure of the Bureau of Land Management to act promptly on proposed revocation applications would result in requiring reanalysis and updating as field conditions may have changed since revocations were submitted. (See pages 18-20.)

To determine benefits which could be derived from an effective review program, GAO examined land withdrawals within the Placer-El Dorado land use planning unit of the Bureau's Folsom District of California. A Bureau official in California said that the withdrawals within this district office was representative of the Bureau's program in the State. The geographic boundaries of the unit include about 1.1 million acres and contain about 300,000 acres of Bureau and Forest Service lands. Many obsolete withdrawals exist and some of the withdrawn lands may be used more effectively for other purposes. (See page 8.)

Within the Placer-El Dorado planning unit, about 27 percent of the total 443,720 acres of withdrawn lands GAO reviewed may no longer be needed for the purposes designated. These lands should be reviewed by the Bureau and, if appropriate, the withdrawal should be revoked. For example, on the basis of reviews conducted by the Geological Survey on powersite withdrawals, GAO estimates that of the 126,344 acres in the unit, about 82,000 acres may be obsolete and need to be reviewed.

GAO also examined withdrawals in the Eldorado and Los Padres National Forests and the John Muir and San Gabriel Wilderness areas and 14 withdrawals in 5 other national forests which appeared to be serving no useful purpose. On the basis of information provided by officials of the Forest Service and Geological Survey, of the 314 withdrawals totaling 1,722,741 acres which GAO examined, about 358,544 acres in 174 withdrawals were not needed for the purposes withdrawn. (See page 13.)

Interior officials said that a comprehensive withdrawal review program had not been implemented because its staff concentrated on higher priority

land use programs, such as energy and grazing. They said that Interior could not unilaterally revoke lands withdrawn by other agencies without the agencies' approval and had experienced difficulty in getting these agencies to cooperate in a review program.

Because withdrawals place restrictions on the use of public lands, unnecessary restrictions should be removed as soon as possible. Even though there may be no urgent short-term need to revoke obsolete land withdrawals, it is doubtful that effective land use management plans can be formulated and obtained while the land is withdrawn for purposes no longer appropriate. A departmental task force has been established to review the need for a withdrawal review system.

On October 21, 1976, Public Law 94-579, the Federal Land Policy and Management Act of 1976 became law. In part, this act requires:

- the Secretary to review the need for existing withdrawals in certain States within 15 years of the date of the act; and
- on and after the date of approval of the Act, new withdrawals to be limited to certain periods of time, generally 20 years, and to be reviewed toward the end of the withdrawal period.

Based on our review, we believe the Secretary of the Interior, in implementing the recently enacted legislation, should:

- Establish in the Department and with the cooperation of other land holding agencies, a coordinated comprehensive program to expeditiously revoke all withdrawals no longer needed.
- Work with the Administrator of General Services to define each agency's withdrawal review responsibilities to avoid duplication of effort in reviewing the need for withdrawals.

In developing an effective withdrawal review program, the Secretary should consider establishing, to the extent practicable, timeframe guidelines for Bureau processing of agency revocation appli-

cations to assist the administering agencies in their land use planning. (See page 22.)

GAO's findings were discussed with agency officials and their comments have been included. However, in accordance with the Committee's request, no formal agency comments have been obtained.

CHAPTER 1

INTRODUCTION

In an October 7, 1975, letter, the Chairman of the House Committee on Interior and Insular Affairs requested us to review the adequacy of Federal procedures for reviewing existing public land withdrawals and revoking obsolete withdrawals in California. Generally, land withdrawals are defined as statutory or administrative actions which restrict or segregate public lands from settlement, entry, location, or disposal under some or all of the general land laws and limit the use of the land to the specific purpose or purposes for which it was withdrawn.

The Secretary of the Interior is vested by statute and Executive order with responsibility for withdrawing public domain or other lands owned or controlled by the United States for public purposes and for returning the lands to an unwithdrawn status when the need for the withdrawal no longer exists.

Withdrawals are made under such authorizations as:

- Special acts of Congress which designate the specific area that will be set aside, such as the Wilderness Act of September 3, 1964 (16 U.S.C. 1131 et seq.).
- The Act of June 25, 1910, ch. 421 (43 U.S.C. 141, 142 and 16 U.S.C. 471) which allows the President to withdraw public lands for waterpower sites, irrigation, classification of lands, or other public purposes.
- The implied authority of the President to make withdrawals for various purposes.

The Bureau of Land Management (Bureau) in the Department of the Interior, is responsible for reviewing all proposed withdrawals and restorations to insure that the proposed action is needed and in the national interest. In addition, the Bureau is responsible for developing and conducting, in cooperation with other bureaus and agencies, a comprehensive review program to make certain that existing withdrawals are still needed for the purposes for which they were withdrawn.

On the basis of the Bureau's most recent public land statistics, of the 704 million acres of public lands^{1/} in the United States, 517 million acres, or about 73 percent, as of June 30, 1974, had been withdrawn, including about 66 percent of the 42.7 million acres of the public lands in California. The following table shows the amount of withdrawn public lands in the United States and in California by administering agency.

Withdrawn Public Lands

<u>Administering agency</u>	<u>United States</u> (Acres)	<u>California</u>
Department of the Interior:		
Bureau of Land Management	281,092,309	1,007,728
Fish and Wildlife Service	26,891,395	2,240
National Park Service	19,834,785	3,855,936
Bureau of Reclamation	5,664,546	863,723
Bureau of Indian Affairs	4,204,849	0
Department of Agriculture:		
Forest Service	160,193,401	19,727,116
Department of Defense	17,046,346	2,628,985
Atomic Energy Commission	1,438,470	0
Other departments and agencies	550,535	2,024
Total	<u>516,916,636</u>	<u>28,087,752</u>

Public lands can be withdrawn for more than one purpose, provided subsequent withdrawals do not conflict with the intent of earlier withdrawals. For example, of the 19.7 million acres of withdrawn Forest Service lands in California, about 2.6 million acres have been withdrawn for various purposes such as wilderness areas, wild and scenic rivers, natural history areas, experimental forests, recreation areas, and watershed protection.

^{1/}Public lands are defined as original public domain lands which have never left Federal ownership or lands obtained by the Government in exchange for public lands but do not include about 56.7 million acres acquired by the Government generally through purchase, condemnation, or gift, which are called acquired lands.

The restoration of withdrawn public lands are made under the same authority used to make the withdrawals. A statutory withdrawal, such as for a wilderness area or a national park, can only be restored by the Congress, unless the withdrawal act specifically provides otherwise.

PROCESSING WITHDRAWAL AND REVOCATION APPLICATIONS

Except for withdrawals specifically made by the Congress, Federal agencies' applications for withdrawing public lands or for revoking a withdrawal order are processed by the Bureau. Applications containing the requesting agency's justification and supporting data for the proposed action are submitted to the appropriate State office of the Bureau. For withdrawals of land, the applicant agency must submit an environmental assessment. For revocation actions, the Bureau is to make the environmental assessment for land that will be returned to its control. A mineral report is also required if the withdrawal is expected to affect mining. The report is to be prepared by the requesting agency if it has enough staff; otherwise, it is to be prepared by the Bureau.

The Bureau reviews the withdrawal or revocation application and makes a field examination to determine whether the request should be approved. After the review, the Bureau reports its findings and recommendations to the Secretary of the Interior. When a withdrawal or revocation application is approved, a Public Land Order is published in the Federal Register.

INTERIOR'S RESPONSIBILITY FOR REVIEWING EXISTING WITHDRAWALS

Congressional approval is needed, under the Act of February 28, 1958 (43 U.S.C. 155 et seq.), for military withdrawals in excess of 5,000 acres. The Congress, however, does not review other types of land withdrawals.

On May 26, 1952, the President, by Executive Order 10355, authorized the Secretary of the Interior to make withdrawals and revocations of public domain lands. The Secretary was authorized to issue rules and regulations prescribing procedures to carry out this responsibility. The Secretary's authority was limited because no order affecting land under the administrative jurisdiction of any executive departments or agencies, other than the Department of the Interior, could be issued by the Secretary, without the prior concurrence of the Department or agency concerned. Disagreements can be referred to the Office of Management and Budget (OMB) for resolution.

The Order did not specifically state that the Secretary should have a program to review existing withdrawals. The Secretary has, however, established a policy requiring a current and continuing review of all withdrawals and has assigned this responsibility to the Bureau.

The Bureau's 12 State offices administer the withdrawal and revocation activities, including the Bureau's review program. The land withdrawal review program is a part of the Bureau's planning unit system. Under this system, the Bureau's district offices, within the 12 State offices, are divided into planning units which are specific geographic areas within a district office. The planning unit is to record and analyze inventory data on its land and the land's resource conditions and capabilities. The data gathered for each planning unit is to include a list of withdrawals by type, acreage, and agency involved. Each withdrawal is to be analyzed periodically--no specific timeframes have been established to determine (1) whether its purpose is being served, (2) its effect on segregating lands from settlement, location, sale, selection, entry, lease, and other forms of disposal under the public land laws, and (3) the effect of the withdrawal on the management of lands, resources, and other possible users.

GENERAL SERVICES ADMINISTRATION'S
RESPONSIBILITY FOR REVIEWING
WITHDRAWALS OF PUBLIC LANDS

On February 10, 1970, the President, by Executive Order 11508, as amended by Executive Order 11560 on September 23, 1970, established a program to improve management of the real property resources of the Federal Government. The Administrator of General Services was ordered to establish uniform standards and procedures for identifying real property not being utilized or being underutilized. These standards and procedures were to be used by executive agencies in completing surveys of all real property under their control. The agencies were to report a listing of the properties and the use of the properties to the Administrator. In addition, the Administrator was ordered to make a survey of real property holdings of all executive agencies to identify properties which, in his judgment, were not being utilized or were being underutilized.

The Administrator was to report to the President those properties which had not been reported excessive by the administering agency but which, in the Administrator's judgment, should have been. In accord with the Federal Property Management Regulations, if a conflict exists between the General Services Administration (GSA) and an executive agency, the case is to be sent to OMB for resolution. Land management

agencies are to conduct annual utilization reviews of their real property holdings and to report this to GSA. The majority of the lands listed in the inventory and subject to review are those lands withdrawn for military purposes.

Executive Order 11508, as amended, specifically excluded from review lands withdrawn for national forests and parks. These orders were superseded by Executive Order 11724 of June 25, 1973, which additionally excluded from review wildlife reserves. A GSA official said many other withdrawn lands administered by the Bureau, such as powersites and wildlife management areas, were excluded from GSA's review.

REVIEWS OF WITHDRAWAL PROGRAM

In June 1970 the Public Land Law Review Commission submitted a report with recommendations, to the President and the Congress, for policy guidelines for the retention and management or disposition of Federal lands.

The Commission had been established by the Congress (43 U.S.C. 1393) on September 19, 1964, to study existing laws and procedures relating to the administration of the public lands of the United States. The Commission recommended that a complete review of all existing withdrawals be undertaken immediately to provide a basis for eliminating those that no longer serve a useful purpose and for modifying those that are unnecessarily large. It recommended also that the Congress establish a formal program under which withdrawals would be periodically reviewed and rejustified or modified.

The Commission noted that the authority of the Secretary of the Interior to effect modifications or revocations of withdrawals of lands administered by an agency outside of the Department was limited because existing procedures give the administering agency veto power over modifications or changes in a withdrawal of lands made for its benefit. Thus the effectiveness of having agencies review their own withdrawals is dubious, unless legislation is enacted requiring a periodic mandatory reconsideration of the withdrawal. According to the Commission, the responsibility for review, and where required the modification and termination of withdrawals, should rest with the same officer who has the authority to make withdrawals.

Concerned about the amount of public lands that have been withdrawn from mineral entry, the Secretary of the Interior, in January 1976, established a departmental task force, consisting of various representatives of the Department,

including the Bureau, (1) to determine which lands have been withdrawn, segregated, or otherwise restricted from mineral exploration and development, (2) to review present policies and procedures governing withdrawal of public lands and, to review modification and termination of withdrawals and restrictions, and (3) to review alternatives to the present withdrawal system. The task force is to make a recommendation to the Secretary by December 31, 1976, on the need to establish a system to periodically review existing withdrawals and determine the continued need for them.

CHAPTER 2

IMPROVEMENTS NEEDED IN

WITHDRAWAL REVIEW AND REVOCATION PROGRAMS

Many withdrawals have not been reviewed for long periods and are no longer necessary. As a result, some land which could be mined, disposed of, or otherwise incorporated into land use management programs are not being used in these ways. These lands remain in a withdrawn status because (1) the Bureau has not fully implemented a comprehensive program to review withdrawals on its lands or on lands administered by other agencies and (2) there are major delays in processing revocation applications. Also coordination is needed between the agencies involved with public lands to avoid possible duplication in reviewing the status of withdrawn land.

Bureau headquarters and State officials said that a comprehensive withdrawal review program had not been implemented because (1) the Bureau's staff concentrated on higher priority land use programs, such as energy and grazing, and (2) withdrawal reviews made by the Bureau in the past were ineffective as the Bureau did not have the authority to revoke withdrawals without the administering agency's approval.

Headquarters officials said that the Bureau had no specific criteria for determining whether withdrawn lands were no longer needed for the purpose they were originally withdrawn and that the Bureau relied on the administering agency to identify lands no longer needed. However, these officials added, if withdrawals were limited to specific periods, when the expiration date is near, a decision would have to be made concerning the need for the withdrawn land. The officials said that consideration is being given to implementing this procedure for all new withdrawals.

BUREAU'S FAILURE TO IMPLEMENT A COMPREHENSIVE REVIEW PROGRAM HAS ALLOWED OBSOLETE WITHDRAWALS TO CONTINUE

In October 1975 the Assistant Secretary for Land and Water Resources stated before the House Subcommittee on Public Lands, Interior and Insular Affairs Committee, that the Bureau's planning system enables the Department to regularly review land withdrawals. He further stated that as a result of the withdrawal review program, initiated during the latter part of the 1950s, there was a continuous, comprehensive withdrawal review program with special emphasis on Department of the Interior withdrawals. According to the

Department's procedures, withdrawals are considered obsolete and are to be revoked when they no longer are needed for the purpose for which they were withdrawn.

We found, however, that although the Bureau had established a program to review withdrawals on lands primarily under its jurisdiction, in many cases a review was not made, and, if made, it was limited to identifying withdrawals rather than determining whether any were obsolete and should have been revoked. In addition, a program to assure that other agencies' withdrawals are reviewed has not been instituted.

To determine the benefits which could be derived from an effective review program, we examined land withdrawals within the Placer-El Dorado land use planning unit of the Bureau's Folsom District of California. According to a Bureau State official, the withdrawals within this district office were representative of the Bureau's program in the State. The geographic boundaries of the unit include about 1.1 million acres and contain about 300,000 acres of Bureau and Forest Service lands.

Placer-El Dorado Land Use Planning Unit

<u>Characteristics</u>	<u>Acreage</u>
Public lands:	
Bureau lands	38,840
Forest Service lands	259,350
Private lands	<u>807,730</u>
Total	<u>1,105,920</u>

Because of the incomplete records, we were unable to specifically determine the total acres of withdrawals, which may be obsolete, by the administering agency. However, on the basis of discussions with officials of the Bureau of Reclamation, Geological Survey, Forest Service, and the Bureau, we estimated that withdrawals for about 119,034 acres or 27 percent of the 443,720 acres withdrawn may be obsolete--no longer needed for the purposes for which they were withdrawn--and should be reviewed. The following table shows the total withdrawals which may be obsolete which we were able to identify by type.

Public Land Withdrawals In The
Placer-El Dorado Land Use Planning Unit

<u>Type of withdrawal</u>	<u>Withdrawn acreage</u>	<u>Questionable acreage</u>
Withdrawn for national forest	259,350	-
Administrative sites	599	-
Recreation areas	5	-
Roadside zones	1,427	-
Pine seed orchard	272	-
Forest experimental stations	40	-
Withdrawn pending resurvey	6,579	6,579
Withdrawn to protect redwoods	14,562	14,562
Quail watering devices	448	448
Reclamation projects	22,600	10,396
Proposed reclamation projects	9,283	3,240
Federal Power Commission power projects	51,467	32,824
Powersite classifications	50,233	34,549
Powersite reserves	24,464	14,949
Reservoir site reserves	180	126
Corps of Engineers	850	-
Withdrawn pending survey	721	721
Withdrawn pending inclusion into the national forest	640	640
Total	<u>a/443,720</u>	<u>a/119,034</u>

a/The total acreage of withdrawn public lands and questionable acreage includes lands withdrawn for more than one purpose.

The revocation of withdrawals may not always result in the lands being available for new or different uses because many withdrawals are secondary. Although the revocation of secondary withdrawals may permit certain uses of the land previously restricted, other restrictions may still remain depending on the limitations, if any, imposed by previous withdrawals. For example, the revocation of secondary withdrawals on Forest Service lands will not open the lands to all possible uses because national forests were originally established through withdrawals which also impose certain limitations on the use of lands.

Withdrawals on land
administered by the Bureau

We examined the land withdrawal inventory data for 31 of the 73 Bureau planning units in California and found that for

16, inventory listings--which were to include descriptions of the property, property boundaries, purpose of withdrawal, and other data--were not given. Therefore an analysis to determine the total Bureau withdrawals which were obsolete could not be made.

According to Bureau officials, some of the withdrawals related to those for powersites or national forests. For example, within the Placer-El Dorado planning unit, 126,344 acres, including some Bureau-administered lands, are in power project- or reservoir-related withdrawals. Powersite withdrawals limit the freedom of the land management agencies to use, exchange, or dispose of the lands, but the lands may continue to be used for other purposes, such as grazing and recreation, with the understanding that power development cannot be precluded by such use.

Concerned with maintaining a current inventory of lands with potential for power-related uses, the Geological Survey has been independently reviewing these withdrawals since 1955. A Bureau official said, however, that the Bureau had not entered into any cooperative withdrawal review program with other agencies within the Department or with other departments primarily because of the lack of staff to work with the agencies and the agencies' information.

On the basis of reviews conducted by the Geological Survey on powersite withdrawals, we estimate that, of the 126,344 acres in the unit we reviewed, about 82,000 acres are questionable and need to be reviewed. Some of these lands, administered by the Bureau, are isolated parcels, and as a result the Bureau cannot manage them effectively. For example, of a 320-acre parcel of land withdrawn 62 years ago for a powersite reserve, 140 acres are surrounded by private ranch lands with no public roads leading into the property.

A Bureau official agreed that the land had little "power value," and the withdrawal should be revoked because it is unaccessible and therefore cannot be used for power purposes. The official said that, if the withdrawal was revoked, attempts could be made to sell the entire 320-acre parcel to private land owners.

He said that there were other powersite withdrawals which he was aware of that were not serving their intended purpose but that they should not be revoked because the withdrawals keep the land in public ownership. For example, he cited a 110-acre parcel encumbered by four withdrawals, the oldest of which is over 61 years old. The land is bordered by a public highway, the American River, and private property.

Revoking the withdrawal action on this parcel, the official said, would serve no public purpose and would complicate the Bureau's management of the land because the withdrawal protected the land from disposal actions and mining claims and provided the Bureau with the opportunity to manage the land for the general public. However, the Bureau has not developed the land for general public use, although an official stated that plans were being made to use the land as an overnight resting place for rafters using the American River.

In our opinion, retaining obsolete withdrawals allows the Bureau to delay deciding on whether the lands will be disposed of or managed for the benefit of the general public. In December 1975 the Bureau headquarters issued instructions on staff reporting requirements for proposed withdrawals and revocation actions. The new instruction memorandum said that revocation actions would not be postponed merely to continue segregating the land for the Bureau's administrative convenience. If there is justification for continued protection, it should be accomplished through the protective withdrawal process, or by classification action, if appropriate. These instructions, if properly carried out, could result in more expeditiously restoring of obsolete withdrawals, allowing the land to be used for other purposes and resulting in better management of public lands.

An example of an obsolete withdrawal on land administered by the Bureau is 640 acres of a parcel of land withdrawn 52 years ago for inclusion in the Tahoe National Forest. However, these 640 acres have never been added to the forest. A Bureau official and a Forest Service official said they did not know why the lands were not included into the national forest. The Bureau official said it was time that a decision was made on the disposition of the lands. The Forest Service official said excluding these lands was probably an oversight at the time the lands were withdrawn. The lands consist of four isolated parcels and are surrounded by private and national forest lands. The lands, the administrative responsibility of the Bureau, are being managed for their timber resources. A Bureau official said that the lands' remoteness from other Bureau-administered lands made the lands difficult to manage and that the lands could be more easily managed by the Forest Service. A Forest Service official said that the lands could be managed by the Tahoe National Forest in conjunction with its timber, wildlife, and watershed protection management programs.

A Bureau State official stated that if the Bureau was given additional funds and staff, a withdrawal review program

could be implemented. In addition, a Bureau headquarters official said that, to have a comprehensive withdrawal review program, the Bureau would need (1) additional staff, (2) enough time to make an adequate review, and (3) the authority to force holding agencies to release obsolete withdrawals. A Bureau official also said the Bureau never specifically requested additional staff for its withdrawal review program in the past. The official said, however, that, for the fiscal year 1978 budget, the Bureau had specifically requested 11 positions for the withdrawal review program.

Withdrawal of land administered
by Forest Service

Although the Bureau has overall responsibility for insuring that all existing withdrawals are reviewed, it has not developed a withdrawal review program for withdrawals of other agencies. Bureau officials at the State level and headquarters officials said that from 1956 to 1964 they tried to implement a comprehensive review program of other agencies' withdrawals. They said, however, that past programs were ineffective because the Bureau lacked the authority to unilaterally revoke withdrawals which the agencies believed were needed but which the Bureau believed should be modified and/or revoked.

The Forest Service is the Government's second largest land management agency with about 160 million acres of withdrawn public land. Forest Service officials told us that it considers land withdrawal reviews a low priority program function and that it had not established an internal review program. As a result, about 259,350 acres, or 87 percent, of the public lands within the Placer-El Dorado land use planning unit were not subject to the Bureau's review procedures because this acreage was administered by the Forest Service.

Forest Service instructions permit regional foresters to initiate actions to revoke withdrawals when the lands are no longer needed for the purposes withdrawn. Forest Service officials in California said there was no incentive to establish a review program. With the exception of its land exchange program, most withdrawals do not greatly affect Forest Service land use management programs, thus reviewing them is considered a low priority. In addition, they said withdrawals made by the Forest Service, although not being used for the purpose withdrawn, served to keep the illegal miners off the land. These miners are considered squatters and trespassers who, under the Mining Law of 1872, (17 Stat. 91) established claims for purposes other than mining, such

as summer cabin sites. According to the Forest Service, these activities can be controlled by retaining the land in a withdrawn status.

We believe obsolete land withdrawals should be revoked and the land not kept in a withdrawn status, primarily for the convenience of the administering agency. The Bureau's December 1975 instruction memorandum generally supports our position. If the lands are needed for other purposes, new withdrawals should be justified.

We identified several examples of a potentially obsolete land withdrawal in need of review under Forest Service administration within the Placer-El Dorado land use planning unit. In one case, a township of about 23,000 acres was withdrawn 84 years ago to protect "six live and two dead redwood trees." The trees are located in an area about 600 feet in diameter; however, the withdrawal removed the entire township from all forms of public entry under the public land laws. The Forest Service did not become aware of this land withdrawal until 1973--80 years later--when its land status records were updated for the first time.

A number of mining claims were improperly granted, and mining took place on these lands between 1900 and 1954. Since 1973, however, 15 mining claims have been declared invalid by the Bureau because, under the withdrawal action, mining is prohibited. Bureau of Mines officials believe that good potential exists for the development of gold mines on the land. A Forest Service official stated, however, that the withdrawal would not be revoked until another withdrawal application, which was being prepared by the Forest Service, for a smaller number of acres is processed to protect the redwood trees, a Forest Service administrative site, and a campground.

To further determine the effect of not establishing a withdrawal review program for Forest Service lands, we examined withdrawals in the Eldorado and Los Padres National Forests and the John Muir and San Gabriel Wilderness areas. We also examined 14 withdrawals in 6 other national forests which appeared to be serving no useful purpose. On the basis of information provided by officials of the Forest Service and Geological Survey, of the 314 withdrawals totaling 1,722,741 acres which we examined, about 358,544 acres in 174 withdrawals were not needed for the purposes withdrawn. (See App. II.)

We did not determine the total number of acres of land having mineral development potential, but we believe, on the

basis of discussions with officials of the Bureau of Mines, that many of those withdrawals which are not needed may be preventing certain mining activity. For example, 3,273 acres in the Six Rivers National Forest were temporarily withdrawn in 1965 pending a land exchange. The lands were not exchanged, yet they remained segregated from the public land laws, including the mining laws. The Bureau of Mines told us that some chromite mining occurred in the general area of the withdrawal during World War I and the Korean conflict. However, no attempts to establish a mining claim have been made since the lands were withdrawn.

In addition, certain other land withdrawals we examined appeared to cause some uncertainty by the Forest Service over what could be done on the land. For example, 5,202 acres in the Inyo National Forest were withdrawn over 60 years ago pending an investigation of the land for irrigation purposes. The Forest Supervisor said that the land was not being utilized for the withdrawal and he was not aware of all restrictions placed on the land by the withdrawal. He said that it was being managed for multiple use and that, even though he was not certain whether mineral entry was affected by the withdrawal, 38 mining claims had been established on the land between 1920 and 1967. Our review of the withdrawal order showed that this land was withdrawn under the Act of June 25, 1910, thus mining is allowed.

Another example of uncertainty over withdrawals is the fact that 6,579 acres in the Eldorado National Forest were temporarily withdrawn over 42 years ago from settlement, location, sale, or entry, pending a resurvey. The resurvey had not been made and the withdrawal continues. In 1938 and 1944 two private land exchanges totaling 630 acres were made in apparent violation of the withdrawal order. Subsequent to our discussion of this withdrawal with Forest Service officials, the Bureau told the Forest Service that the land exchanges were not proper, but due to the expiration of the statute of limitations on these transactions, the oversight could not be corrected.

A regional Forest Service official said that the variety of authorities and types of withdrawals created a problem which could not be adequately represented in land status records. As a result, he said, the Forest Service does not know precisely how many acres of forest land are affected by withdrawals, or in what way, and therefore it does not know exactly what the Forest Service's capabilities are to produce goods and services.

We discussed our findings with Bureau and Forest Service officials. As a result of the discussions, the Director, Bureau of Land Management, in a February 17, 1976, letter to the Chief, Forest Service, requested cooperation in developing and carrying out a meaningful withdrawal review program insofar as unneeded Forest Service withdrawals were concerned. The Director also requested developing a close working relationship at both the headquarters and field levels in (1) handling new withdrawal requests and (2) expeditiously processing proposed withdrawals which have been published as proposals but not yet finalized.

We believe that entering into a review program with the Bureau will help reduce the uncertainty of what the Forest Service, as well as the public, can do on national forest lands. To properly administer any land use program, including minimizing unlawful use of land, it is necessary to know what restrictions are on the land and what effect these restrictions have on the use of the land. Identifying and revoking obsolete withdrawals would allow the land to be used for other purposes, as appropriate.

NEED FOR COORDINATING REVIEW ACTIVITIES BETWEEN GSA AND THE BUREAU

The General Services Administration and the Bureau have overlapping responsibility for reviewing the status of certain withdrawn lands. The Bureau is responsible for reviewing all existing withdrawals, and GSA is responsible for reviewing the utilization of most Federal real property. Withdrawal and utilization reviews are generally concerned with whether the lands are needed and/or being effectively used by Federal agencies. The largest holdings of withdrawn lands which the Bureau and GSA have responsibility for reviewing are for military purposes. The Department of Defense has control over about 17 million acres of withdrawn public land. The major exceptions to GSA's review are national forests, parks, wildlife refuges, and unwithdrawn public lands.

Bureau officials told us that they had not participated in the GSA program and did not know how the GSA program would affect the Bureau if it had an active withdrawal review program. According to a GSA headquarters official, it was not necessary to coordinate GSA's real property utilization review program with the Bureau because:

--Most GSA reviews involve "acquired" land which is land generally received as gifts, condemnations, and by purchase whereas the Bureau reviews involve public lands.

--With the exception of military and Bureau of Reclamation lands, lands reviewed by GSA have improvements thereon whereas most Bureau lands do not.

--The Bureau is being indirectly informed of the results of GSA reviews when applications to revoke the withdrawals are submitted to it.

Because the Bureau has overall responsibility for reviewing existing withdrawals and new withdrawal applications, it should be involved in and/or informed of the results of any other agencies' reviews of withdrawn land including military withdrawals with improvements. This information could be used by the Bureau when reviewing re-withdrawal applications to avoid duplicating work already done by GSA. A Bureau headquarters official said military withdrawals made under the Act of February 28, 1958, are terminating and scheduled for rewithdrawal review. Also, if the Bureau implements a comprehensive review program, it will have to coordinate its activities with GSA to avoid duplication in reviewing the need for certain withdrawals, such as those of the Defense Department.

From 1970 through November 1975, the utilization of 22.1 million acres, or about 97 percent, of the approximately 23 million acres of public and acquired lands under the control of the military had been reviewed by GSA, the Department of Defense, or the individual military services. As a result of these reviews, the military agreed to release about 1.4 million acres. Although the Bureau has overall responsibility to make certain that all withdrawals, including military withdrawals, are still needed, a cooperative review program for military withdrawals has not been established.

One of the military installations GSA reviewed was the Chocolate Mountain Aerial Gunnery Range located in the southern California desert. Of this 458,894-acre range, about 252,126 acres were withdrawn by the Congress in September 1963 for the Department of the Navy's use. The withdrawal expired on September 5, 1973, and in January 1974 the Navy submitted an application to the Bureau to rewithdraw the lands.

In October 1972 the Navy made a utilization review of the range and found that about 83,840 acres were not being utilized or were underutilized. The Navy and the Department of Defense, however, did not want to return the land to general public use because:

--The lands could not be adequately cleared of explosives because explosive decontamination procedures were not sufficiently advanced to guarantee that the public would be protected from explosive hazards.

--Clearing the land could cost between \$1,500 and \$2,300 an acre and the estimated value of the land was only between \$15 and \$100 an acre.

In July 1975 GSA agreed not to submit a revocation application for the land to the Bureau.

From January 1974 to July 1975, when discussions were taking place between the Navy and GSA over the disposition of the excess lands, the Bureau was reviewing the Navy's rewithdrawal application. Neither GSA nor the military service coordinated their review activities with the Bureau, and the Bureau officials were unaware of the utilization review made on the range until we brought it to their attention.

The Federal Property Management Regulations require that all real property utilization reports, such as the one for Chocolate Mountain, contain information on whether:

- The land is being put to its highest and best use.
- All the land is essential for program requirements.
- Buffer or safety zones are kept to a minimum.
- The land can be disposed of and program requirements satisfied through reserving rights and interests to the Government in the property if it is released.
- Any land is being retained merely because it is considered undesirable property due to topographical features or encumbrances for rights-of-way, or because it is believed not to be disposable.

A Bureau official said that, since he did not have a copy of the utilization report, he did not know specifically how the data would help the Bureau in reviewing the withdrawal application for Chocolate Mountain. He said, however, that the information required to be included in the report by the Federal Property Management Regulations would probably be relevant to determining whether the lands needed to be re-withdrawn.

On the basis of our review of the utilization report on Chocolate Mountain, we believe that the type of information

included would aid the Bureau in evaluating rewithdrawal applications and also aid in its review of existing withdrawals when it implements a comprehensive withdrawal review program. For example, the utilization report contained information on the total amount of land, a history of its uses, the value of improvements, a narrative on its mission, findings and conclusions as to its utilization, and proposed disposal actions.

THE BUREAU'S WITHDRAWAL RESTORATION
PROGRAM IS UNTIMELY

An essential part of an effective withdrawal review program is revoking obsolete withdrawals in a timely manner. The Secretary of the Interior delegated to the Bureau the responsibility for reviewing all proposed revocation actions and, where appropriate, to return the lands to an unencumbered status. Accountability and responsibility for withdrawn lands remain with the relinquishing agency until revoked by the Secretary of the Interior. Bureau delays in processing revocation applications have prevented other agencies from relinquishing their responsibilities over withdrawn land and have also prevented the lands from being used for other purposes.

We found in the Bureau's California office a backlog of revocation applications, dating back to 1957 or about 19 years old. A Bureau official said that the backlog was due to the lack of sufficient staff to make necessary field reports, including environmental analyses to determine the impact of returning the land back to general public use, to revoke withdrawals. Bureau officials said that staff efforts have been directed toward higher priority matters, such as (1) energy-related programs, (2) implementing the Bureau's land planning unit system in 1964, and (3) fulfilling the requirements of the Act of September 19, 1964 (43 U.S.C. 1411 to 1418).

To determine the length of time the Bureau takes to process applications, we examined 48 revocation applications which were pending in California in October 1972. As of August 1975, 23 of these applications were still pending. Several of these applications either needed concurrence from the administering agency or the Bureau's environmental assessments were not completed.

The remaining 25 applications were completed and were (1) approved, or (2) withdrawn by the relinquishing agency, or (3) rejected by the Bureau. The average time to close the revocation cases was 48 months and varied from 4 to 126 months as shown on the next page.

Status of Applications--August 1975

	<u>Number of applications</u>	<u>Acreage</u>	<u>Months to close</u>	<u>Average time (months)</u>
Still open	<u>23</u>	<u>249,842</u>		112
Closed	4	569	1-12	
	7	101,890	13-24	
	2	6,781	25-36	
	2	418	37-48	
	<u>10</u>	<u>56,851</u>	over 48	
Total	<u>25</u>	<u>166,509</u>		48

To determine the overall age of existing revocation applications which have not been closed, we reviewed the California State office's files as of August 31, 1975. As shown below, the California State office had pending 63 revocation applications for 386,809 acres. These applications included the 23 totaling 249,842 listed in the previous schedule which were submitted prior to October 1972.

<u>Period application submitted</u>	<u>Number of cases</u>	<u>Acreage</u>
Prior to 1961	7	192,617
1961 to 1965	4	61,246
1966 to 1970	12	16,461
1971 to August 1975	<u>40</u>	<u>116,485</u>
Total	<u>63</u>	<u>386,809</u>

Of these 63 revocation applications, 11 had been pending for over 10 years. We reviewed 5 of the 11 applications for 192,412 acres, which the Bureau of Reclamation had submitted between December 1957 and May 1960. These 5 applications showed that either additional field reports were needed and/or environmental assessments were needed for the withdrawn lands proposed to be revoked. The Bureau requires staff or field reports to identify the effects of the revocation on the Bureau's programs and an environmental analysis or impact statement for each revocation application, in accordance with the provisions of the National Environmental Policy Act of 1969 (ch. 55, 42 U.S.C.).

An example of the effect of these delays can be demonstrated by two of the five Bureau of Reclamation cases pending for over 10 years. About 83,339 acres were withdrawn by the Bureau of Reclamation between July 2, 1902, and October 10,

1932, for the Colorado River Storage and Yuma projects and submitted for revocation in 1958 and 1960. In July 1975 an attorney representing a mining company said that, on the basis of considerable exploration just outside the boundaries of the property, and on a very limited study within the property, the area had a potential for mineral development. He said that a great deal of effort had been expended in trying to have the land restored to mineral entry, but the Bureau's inaction to revoke the withdrawals had effectively kept the lands closed to mining.

The Bureau's State Director said a study was underway to determine the mineral character of the lands and the possible impacts surface mining would have on other resource values in the area. Upon completion of this study, the attorney was to be told whether the Bureau proposed to restore the lands for entry under the mining laws or recommended that they be withdrawn for other purposes.

A Bureau of Reclamation official said that the Bureau's failure to act promptly on the proposed revocation applications has greatly complicated their land administration program. As a result of the delays, each proposed revocation will now require reanalysis and updating because the field conditions may have changed since the revocations were submitted.

CHAPTER 3

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

The Bureau has not established a comprehensive public land withdrawal review program. Many withdrawals--some made in the early 1900s--exist and have not been reviewed by the Bureau, so that a determination of whether they are still appropriate cannot be made. Also, the Bureau has not expeditiously processed revocation applications for certain withdrawals identified as obsolete. Some revocation applications are about 19 years old, and the Bureau in many cases takes an average of 4 years to process a revocation application. Therefore, many obsolete withdrawals continue.

Some of the land may be used more effectively for other purposes. Even if there is no apparent immediate alternative use for the land, the implementation of effective land use plans or land use management is hampered because land is unnecessarily encumbered. The Bureau has not established a review program because it has had to use its staff on higher priority public land use programs, such as energy and grazing.

To help foster effective land use planning, the Bureau should review existing withdrawals under its jurisdiction, and establish a program, with the cooperation of other Federal agencies, to review the land withdrawn and administered by the other agencies. A cooperative review program done effectively on a systematic basis should help to ensure that all unnecessary withdrawals are promptly revoked.

The Bureau and the General Services Administration have some overlapping responsibilities for reviewing withdrawals--primarily concerning military withdrawals. Therefore, to avoid duplication in the Bureau's reviewing withdrawal applications, the Bureau and GSA need to coordinate their activities.

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

We recognize that a departmental task force has been established to review the need for a withdrawal review system. Also, on October 21, 1976, Public Law 94-579, the Federal Land Policy and Management Act of 1976 became law. In part, this act requires:

--the Secretary to review the need for existing withdrawals in certain States within 15 years of the date of the act; and

--on and after the date of approval of the Act, new withdrawals to be limited to certain periods of time, generally 20 years, and to be reviewed toward the end of the withdrawal period.

We believe our recommendations, which follow, will be of assistance to the task force and to the Secretary in implementing the recently enacted legislation.

We recommend that to help insure that public lands are effectively used, the Secretary of the Interior:

--Establish within the Department and with the cooperation of heads of other land holding agencies, a coordinated comprehensive program to expeditiously revoke all withdrawals which are no longer needed.

--Work with the Administrator of General Services in defining each agency's withdrawal review responsibilities to avoid duplication in reviewing the need for withdrawals.

We suggest that, in developing an effective withdrawal review program, the Secretary consider establishing, to the extent practicable, timeframe guidelines for Bureau processing of agency revocation applications to assist the administering agencies in their land use planning.

CHAPTER 4

SCOPE OF REVIEW

We made our review to determine whether the Bureau had implemented an effective program to review and revoke obsolete land withdrawals. As requested by the Chairman in his October 7, 1975, letter, we directed our work to California and did not review the withdrawal process itself or other areas dealing with the effect of withdrawals on land use management programs.

In California and Washington, D.C., we examined the withdrawal review programs and procedures of the Department of the Interior's Bureau of Land Management, Bureau of Reclamation, and Geological Survey; the Department of Agriculture's Forest Service; the General Services Administration; the Department of Defense; and the Department of the Navy. We reviewed, as of December 1975, all the withdrawals in the Bureau's Placer-El Dorado planning unit, the Eldorado and Los Padres National Forests, two wilderness areas, 14 withdrawals in 6 other national forests and the Navy's withdrawal for the Chocolate Mountain Aerial Gunnery Range.

Agency officials contacted during the review were asked to comment on the obsolescence of particular withdrawals, the effectiveness of present and past withdrawal review programs, and the need for withdrawal review.

We also reviewed revocation files and procedures at the Bureau's California office.

APPENDIX I

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October 7, 1975

APPENDIX I

CHARLES GIBLIN
STAFF DIRECTOR
LEE MC BLAIN
GENERAL COUNSEL
MICHAEL C. MAURER
MINORITY COUNSEL

Honorable Elmer B. Staats
Comptroller General of the United States
General Accounting Office
441 G Street, Northwest
Washington, D. C. 20548

Dear Mr. Staats:

As you know, on July 24, 1975, this Committee requested your office to brief the Committee Staff on the observations and tentative conclusions of your preliminary study of public land withdrawals in California. On September 24, personnel of your office met with Committee Staff members and provided this information. We appreciate your timely cooperation and believe that the information provided will be useful to the Committee in considering pending legislation, as well as continuing oversight responsibilities.

The Committee was most interested in GAO's findings regarding the procedures to review and revoke existing withdrawals. We agree with your staff's view that the current procedures do not appear to be adequate and have had a significant adverse impact on the effective use of public domain lands. Because of the significance of these matters and the Committee's immediate need for such information, we are hereby requesting GAO to concentrate its efforts on these matters during its current study and issue a report to the Committee as soon as possible. The report should include GAO's findings, conclusions, and recommendations concerning the adequacy of the procedures for making reviews and revocations of existing withdrawals in the State of California.

We understand that work on these matters has not been completed and that additional work is necessary before reaching conclusions and reporting to the Committee. We would appreciate it if your office would brief the Committee

APPENDIX I

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U. S. Comptroller General Staats

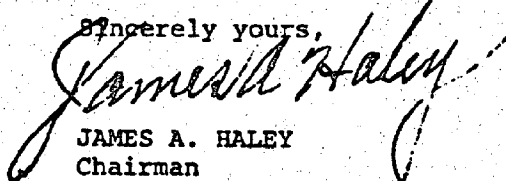
October 7, 1975

Page 2

on your final position prior to the drafting of your report. Subsequently, the Committee plans to request your office to initiate a more extensive review of land withdrawals in several Western States. This work may include other aspects of the withdrawal process on which you have already developed preliminary information during your current study.

As Chairman of this Committee I wish to express my appreciation for your cooperation on this important matter and will be glad to provide any assistance we can to your staff during their performance of this work.

Sincerely yours,

A handwritten signature in cursive script, reading "James A. Haley". The signature is written in dark ink and is positioned above the printed name and title.

JAMES A. HALEY
Chairman

APPENDIX II

APPENDIX II

WITHDRAWALS ON FOREST SERVICE LANDS

<u>Types of withdrawals</u>	<u>Withdrawals examined</u>		<u>Obsolete or excess</u>	
	<u>Number</u>	<u>Acres</u>	<u>Number</u>	<u>Acres</u>
Eldorado National Forest:				
Administrative sites	22	1,717	8	614
Recreation areas	36	64,257	28	62,350
Roadside zones	2	7,770	-	-
Wilderness	2	112,155	-	-
Proposed exchanges	2	803	-	-
Other withdrawals	5	22,221	2	14,850
Various power withdrawals	50	147,899	35	a/103,529
John Muir Wilderness area:				
Recreation areas	2	17	1	5
Mono Long Valley geothermal	1	2,008	-	-
Withdrawal in aid of legislation	1	36,027	1	36,027
Various power withdrawals	17	59,478	12	a/41,635
Los Padres National Forest:				
Administrative sites	61	9,417	5	584
Recreation areas	72	6,267	62	5,254
Sespe Condor Sanctuary	1	69,117	-	-
Santa Ynez watershed	1	300,076	-	-
Santa Barbara watershed	1	177,000	-	-
Other withdrawals	6	19,889	-	-
Various power withdrawals	13	44,365	9	a/31,056
Wilderness	2	237,874	-	-
San Gabriel Wilderness area:				
Recreation area	1	45	1	45
Reservoir site reserve	1	510	1	510
Los Angeles County watershed	1	9,405	-	-
Sequoia National Forest:				
Withdrawal in aid of legislation	1	51,520	1	51,520
Angeles National Forest:				
Los Angeles County watershed	1	331,631	-	-
Inyo National Forest:				
Irrigation purposes	1	5,202	1	5,202

APPENDIX II

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<u>Types of withdrawals</u>	<u>Withdrawals examined</u>		<u>Obsolete or excess</u>	
	<u>Number</u>	<u>Acres</u>	<u>Number</u>	<u>Acres</u>
Six River National Forest: Proposed land exchange	1	3,273	1	3,273
Stanislaus National Forest: Various withdrawals	3	1,820	3	1,820
Tahoe National Forest: Various withdrawals	7	978	3	270
Total	<u>314</u>	<u>1,722,741</u>	<u>174</u>	<u>358,544</u>

a/Estimate was based on the Geological Survey's reviews of powersite withdrawals which found that 70 percent of the withdrawn acreage was not needed for water and power purposes.

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